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FISCAL IMPACT STATEMENT

LS 7879

BILL NUMBER: SB 503

NOTE PREPARED: Mar 30, 2005

BILL AMENDED: Mar 29, 2005

SUBJECT: Release of Social Security Numbers.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Koch

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It prohibits a state agency from releasing the Social Security number of an individual unless the release is:

- (1) required by state law, federal law, or court order;
- (2) authorized in writing by the individual;
- (3) made to comply with the USA Patriot Act or Presidential Executive Order 13224; or
- (4) made to a commercial entity for permissible uses set forth in the Drivers Privacy Protection Act, the Fair Credit Reporting Act, or the Financial Modernization Act of 1999.

(B) It provides that disclosure of the last four digits of a Social Security number is not considered a disclosure of the Social Security number.

(C) It requires a state agency to notify:

- (1) an individual of a security breach of the agency's computer system if the individual's unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person; and
- (2) all consumer reporting agencies if notice is provided to more than 1,000 people.

(D) It makes it a Class D felony to knowingly make a false representation to obtain a Social Security number or for an agency employee to knowingly disclose a Social Security number.

(E) It provides that an agency employee who negligently discloses a Social Security number commits a Class A infraction.

(F) It requires an individual who prepares a document for recording to:

- (1) certify that the individual reviewed the entire document and took reasonable care to redact Social Security numbers in the document; and
- (2) record the certification.

(G) It requires:

- (1) each county legislative body to establish an identification security protection fund; and
- (2) until July 1, 2011, the county recorder to deposit \$2 of the fee for recording a certification in the fund.

(H) After December 31, 2007, it requires a county recorder or an employee of a county recorder to search documents using redacting technology to redact Social Security numbers before the documents are release for public inspection.

(I) It authorizes establishment of a pilot project beginning July 1, 2005, to develop procedures and test technology and equipment for searching recorded documents and redacting Social Security numbers.

(J) It requires county recorders to seek federal grants, private funds, and other sources of money to implement redacting technology.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: (Revised) *Release of Social Security Numbers - Administrative Costs:* State agencies could incur increased costs for changes to current procedures and/or computer systems as required in several provisions of the bill. There are no data available to estimate the increase in cost, but the provisions that appear to add administrative cost include:

1. State agencies would be prohibited from releasing Social Security numbers except in certain circumstances.
2. Removing, or completely and permanently obscuring a Social Security number on a public record before disclosing the record is considered compliance.
3. State agencies that disclose personal information in violation of the section would be required to notify persons whose Social Security number was disclosed.
4. State agencies that disclose personal information affecting more than 1,000 people would be required to notify consumer reporting agencies.

Attorney General's Office: This proposal would require the Attorney General's office to develop procedures for investigation of and reporting of violations of Social Security number disclosures. The provision is expected to increase the administrative cost of the Attorney General's office. However, the number of violations that would occur is unknown, and therefore, the added administrative cost is undeterminable. Currently, aside from the customer information contained in the records of a municipal utility, Social Security numbers are not required to be stricken from information available through the state's public records law.

Felony Crimes: There are no data available to indicate how many state employees would be convicted of

knowingly, intentionally, or recklessly disclosing a Social Security number or the number of people who would be convicted of knowingly, intentionally, or recklessly making a false representation to obtain a Social Security number. Both of these offenses would be a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Felony Crimes:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000.

Infractions: There are no data available to indicate how many state employees may be convicted of negligently disclosing a Social Security number or how many county recorders or their employees may disclose a recorded document that contains a Social Security number without having searched the document. Both of these offenses would be a Class A infraction. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: (Revised) *County Recorders:* The bill would have indeterminate additional cost for county recorders to search documents for a Social Security number and redacting documents that contain the number, and for recording certification that the individual reviewed the entire document and took reasonable care to redact the Social Security number. These costs are somewhat mitigated because the bill would require the county recorder to comply to the extent possible and because individuals would not be able to submit documents for recording that contain Social Security numbers, unless the document is redacted.

Explanation of Local Revenues: (Revised) *County Recorders:* The county recorders are required by the bill to seek federal grants, private funds, and other possible sources of money to implement the redacting technology. In addition, the bill would require that the county recorder charge a fee for recording a document under the chapter, including a fee for a form that must be submitted with a document. Two dollars of the fee charged would be placed in the county identification security protection fund, required to be established under the bill. The fund would be used by the county recorder to purchase, upgrade, implement, or maintain redacting technology.

Felony Crimes and Infractions: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees.

State Agencies Affected: Department of Correction; Information Technology Oversight Commission; State agencies; Legislative Branch; Judicial Branch.

Local Agencies Affected: Trial courts, local law enforcement agencies; county recorders.

Information Sources:

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